

PETER C. ANDERSON
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Kenneth M. Miskin (SBN 349167)
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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION

In re:

**THE LITIGATION PRACTICE
GROUP, P.C.,**

Debtor.

Case Number 8:23-bk-10571-SC

Chapter 11

**STIPULATION TO DISMISS UNITED
STATES TRUSTEE'S MOTION TO
CONVERT CASE TO CHAPTER 7
PURSUANT TO 11 U.S.C. § 1112(b)**

Continued Hearing:

DATE: September 14, 2023

TIME: 11:00 a.m.

CTRM: 5C - Virtual

411 W. 4th Street
Santa Ana, CA 92701

**TO THE HONORABLE SCOTT CLARKSON, UNITED STATES
BANKRUPTCY JUDGE, DEBTOR, DEBTOR'S COUNSEL, CHAPTER 11
TRUSTEE, AND ALL PARTIES IN INTEREST:**

The Stipulation (the "Stipulation") to Dismiss United States Trustee's Motion (the "Motion") to Convert Case to Chapter 7 Pursuant to 11 U.S.C. § 1112(b) is made by the United States Trustee (the "U.S. Trustee"), the Chapter 11 Trustee, the Official Committee of Unsecured Creditors (the "Committee"), and the Debt Validation Fund II, LLC, MC DVI Fund 1, LLC and MC DVI Fund 2, LLC (collectively referred as the

“Creditors”), by and through their respective counsel of record, with reference to the following facts:

RECITALS

- A. On July 13, 2023, the U.S. Trustee filed the Motion [Bankr. Dkt. # 232]. The initial hearing on the Motion was set for August 10, 2023, at 10 a.m.
- B. On July 19, 2023, the Trustee filed a Preliminary Opposition (the “Trustee’s Opposition”) to the Motion [Bankr. Dkt. # 286].
- C. In connection with the Trustee’s Opposition, the Trustee provided Certificates (the “Certificates”) of Liability Insurance showing proof of insurance. The Certificates list both the Trustee and the U.S. Trustee as additional insured and loss payees [Bankr. Dkt. # 286].
- D. On July 20, 2023, the Creditors filed a Preliminary Opposition (the “Creditors’ Opposition”) to the Motion [Bankr. Dkt. # 306].
- E. On July 22, 2023, the Court entered an Order approving the Sale Motion [Bankr. Dkt. # 320].
- F. On July 27, 2023, the Committee filed a: (I) Joinder to the Trustee’s Opposition; and (II) Reservations of Rights (the “Committee’s Joinder”) [Bankr. Dkt. # 340].
- G. On August 2, 2023, the Court entered an Order: (A) Approving Sale of Assets Free and Clear of All Liens, Claims, Encumbrances and Interests Pursuant to 11 U.S.C. § 363(b); and (B) Approving Assumption and Assignment of Certain Executory Contracts and Unexpired Leases and Other Agreements; and (C) Granting Related Relief [Bankr. Dkt. # 352].
- H. On August 3, 2023, the U.S. Trustee filed a Reply to the Trustee and Creditors’ Oppositions and the Committee’s Joinder [Bankr. Dkt. # 358].
- I. On August 7, 2023, this Court entered an order continuing the hearing on the Motion to September 14, 2023, at 11:00 a.m.

1 J. On August 10, 2023, the Trustee filed Monthly Operating Reports (“MORs”) for
2 April 2023, May 2023, and June 2023, using the proper UST Form 11-MOR
3 [Bankr. Dkt. # 374, #375, and #376].

4 K. During the status conference held on August 10, 2023, the Court ordered the
5 Trustee to file and serve a Chapter 11 Plan and Disclosure Statement no later than
6 October 24, 2023.

7 L. Based on the foregoing and the fact that: (a) the Trustee has cured the deficiencies
8 set forth in the Motion; and (b) the Trustee agreed to file a Chapter 11 Plan and
9 Disclosure Statement no later than October 24, 2023, the U.S. Trustee, the
10 Trustee, the Committee, and the Creditors have agreed to dismiss the Motion.

11 **ACCORDINGLY, AND SUBJECT TO THE COURT’S APPROVAL, IT IS**
12 **HEREBY STIPULATED THAT:**

- 13 1. The above recitals are incorporated herein by this reference.
- 14 2. The U.S. Trustee’s Motion to Convert Case to Chapter 7 Pursuant to 11 U.S.C. §
15 1112(b), currently calendared for September 14, 2023, at 11:00 a.m., shall be and
16 hereby is DISMISSED;
- 17 3. The U.S. Trustee withdraws the allegations of gross mismanagement set forth in
18 the Motion;
- 19 4. This withdrawal and dismissal are without prejudice and the parties reserve all
20 rights, claims, and defenses; and

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5. The proposed order approving said Stipulation will be lodged with the Court by
the United States Trustee via L.O.U.

PETER C. ANDERSON
UNITED STATES TRUSTEE

Dated: August 24, 2023

By: /s/ Kenneth M. Miskin

Kenneth M. Miskin
Assistant United States Trustee


Dated: August ____, 2023

MARSHACK HAYS LLP

By: _____
D. EDWARD HAYS
Attorney for Chapter 11 Trustee


Dated: August 25, 2023

FOX ROTHSCHILD LLP

By: 
KEITH C. OWENS
NICHOLAS A. KOFFROTH
Attorneys for the Committee

Dated: August 25, 2023

WINTHROP GOLUBOW HOLLANDER, LLP

By: 
RICHARD H. GOLUBOW
Attorney for Debt Validation Fund II,
LLC, MC DVI Fund 1, LLC an MC DVI Fund
2, LLC

5. The proposed order approving said Stipulation will be lodged with the Court by
the United States Trustee via L.O.U.

PETER C. ANDERSON
UNITED STATES TRUSTEE

Dated: August 24, 2023

By: /s/ Kenneth M. Miskin

Kenneth M. Miskin
Assistant United States Trustee

Dated: August 25, 2023

MARSHACK HAYS LLP

By: D. Edward Hays
D. EDWARD HAYS
Attorney for Chapter 11 Trustee

Dated: August ____, 2023

FOX ROTHSCHILD LLP

By: _____
KEITH C. OWENS
NICHOLAS A. KOFFROTH
Attorneys for the Committee

Dated: August ____, 2023

WINTHROP GOLUBOW HOLLANDER, LLP

By: _____
RICHARD H. GOLUBOW
Attorney for Debt Validation Fund II,
LLC, MC DVI Fund 1, LLC an MC DVI Fund
2, LLC

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

411 West Fourth Street, Suite 7160, Santa Ana, CA 92701

A true and correct copy of the foregoing document entitled (*specify*):

STIPULATION TO DISMISS UNITED STATES TRUSTEE'S MOTION TO CONVERT CASE TO CHAPTER 7 PURSUANT TO 11 U.S.C. § 1112(b)

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) **August 25, 2023**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

SEE ATTACHED SERVICE LIST (IF APPLICABLE)

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On (date) **August 25, 2023**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

SEE ATTACHED SERVICE LIST (IF APPLICABLE)

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) **August 25, 2023**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

SEE ATTACHED SERVICE LIST (IF APPLICABLE)

☒ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

August 25, 2023
Date

Jaimee Zayicek
Print Name

/s/ Jaimee Zayicek
Signature

ADDITIONAL SERVICE INFORMATION

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")

<u>Name</u>	<u>Capacity</u>	<u>Email Address</u>
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This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

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SEE NEF FOR CONFIRMATION OF ELECTRONIC TRANSMISSION TO THE U.S. TRUSTEE AND ANY TRUSTEE IN THIS CASE, AND TO ANY ATTORNEYS WHO RECEIVE SERVICE BY NEF.

2. **SERVED BY U.S. MAIL**

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3. **SERVED BY (state method for each person served):**

PERSONAL DELIVERY, FACSIMILE OR EMAIL

Judge's Copy

Honorable Scott C. Clarkson – bin on the 5th Floor

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